

**ECKERT SEAMANS CHERIN & MELLOTT, LLC**  
10 Bank Street, Suite 700  
White Plains, NY 10606  
Telephone: (914) 949-2909  
Christopher F. Graham, Esq.  
Sarah H. Morrissey, Esq.

*Counsel for the Adjusted Debtor and Defendant  
Suffolk Regional Off-Track Betting Corporation*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

In re:

SUFFOLK REGIONAL OFF-TRACK  
BETTING CORPORATION,

Adjusted Debtor.

JENNIFER TOMASINO, KEVIN MONTANO,  
RICHARD MEYER, and APRYL L. MEYER,

Plaintiffs,

-against-

INCORPORATED VILLAGE OF ISLANDIA,  
BOARD OF TRUSTEES OF THE VILLAGE OF  
ISLANDIA, DELAWARE NORTH ISLANDIA  
PROPERTIES, LLC, a/k/a DELAWARE NORTH,  
and SUFFOLK REGIONAL OFF-TRACK  
BETTING CORPORATION,

Defendants.

**HEARING DATE: November 28, 2018**  
**HEARING TIME: 2:00 p.m.**

Chapter 9

Case No. 12-43503-CEC

Adv. Proc. No. 18-1033-CEC

**NOTICE OF JOINDER OF  
SUFFOLK REGIONAL OFF-  
TRACK BETTING  
CORPORATION IN  
DEFENDANT DELAWARE  
NORTH ISLANDIA  
PROPERTIES, LLC'S MOTION  
TO STRIKE/PRECLUDE**

**PLEASE TAKE NOTICE** that the Adjusted Debtor and Defendant Suffolk Regional Off-Track Betting Corporation ("Suffolk OTB") hereby joins in co-Defendant Delaware North Islandia

Properties, LLC's ("Delaware North's") Motion [Dckt. No. 80] for an Order, pursuant to Federal Rules of Civil Procedure 26(a)(2) and 37(c)(1), made applicable to this Adversary Proceeding by Federal Rules of Bankruptcy Procedure 7026 and 7037: (1) striking/precluding the Declarations of Stephen M. Jones (Docket No. 73 and 79) and Neil Munro (Docket No. 74), and any references to those Declarations in Plaintiffs' Counter-Statement of Material Facts (Docket Nos. 76-77), Plaintiffs' Memorandum of Law in Opposition to Rule 56 Motions (Docket No. 78), and any of Plaintiffs' other papers filed in opposition to Defendants' summary judgment motions; (2) precluding Plaintiffs from using the Declarations of Stephen M. Jones (Docket No. 73 and 79) and Neil Munro (Docket No. 74) to supply evidence in opposition to Defendants' summary judgment motions, at the summary judgment hearing, or at trial; and (3) granting Suffolk OTB such other and further relief as is deemed just and proper by this Court.

### **STATEMENT**

Suffolk OTB hereby submits the following statement in further support of the Motion to Preclude/Strike:

1. Though both Mr. Jones and Mr. Munro have apparently been part of Plaintiffs' team for a long time, Plaintiffs do not offer any explanation for their lack of disclosure as expert witnesses before the close of discovery on October 24, 2018.
2. All parties understand that continuance of this adversary proceeding is not a possibility.
3. To the extent Mr. Jones offers an opinion on legal matters, he is not qualified to do so in this case as he does not hold a bar license or a law school degree.

**WHEREFORE**, for the foregoing reasons, and those stated in Delaware North's Motion to Strike/Preclude and Memorandum of Law in Support, Suffolk OTB hereby moves this Court

for an order, pursuant to Federal Rules of Civil Procedure 26(a)(2) and 37(c)(1), made applicable to this Adversary Proceeding by Federal Rules of Bankruptcy Procedure 7026 and 7037: (1) striking/precluding the Declarations of Stephen M. Jones (Docket No. 73 and 79) and Neil Munro (Docket No. 74), and any references to those Declarations in Plaintiffs' Counter-Statement of Material Facts (Docket Nos. 76-77), Plaintiffs' Memorandum of Law in Opposition to Rule 56 Motions (Docket No. 78), and any of Plaintiffs' other papers filed in opposition to Defendants' summary judgment motions; (2) precluding Plaintiffs from using the Declarations of Stephen M. Jones (Docket No. 73 and 79) and Neil Munro (Docket No. 74) to supply evidence on Defendants' summary judgment motions, at the summary judgment hearing, or at trial; and (3) granting Suffolk OTB such other and further relief as is deemed just and proper by this Court.

Dated: White Plains, New York  
November 15, 2018

Respectfully submitted,

**ECKERT SEAMANS CHERIN & MELLOTT, LLC**

By: /s/ Christopher F. Graham  
Christopher F. Graham, Esq.  
Sarah H. Morrissey, Esq.

10 Bank Street, Suite 700  
White Plains, New York 10606  
(914) 949-2909  
cgraham@eckertseamans.com  
smorrissey@eckertseamans.com

*Attorneys for Defendant Suffolk Regional Off-Track Betting Corporation*

To: ALL COUNSEL OF RECORD (via ECF)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 15, 2018, I caused true and correct copies of the *Notice of Joinder of Suffolk Regional Off-Track Betting Corporation in Defendant Delaware North Islandia Properties, LLC's Motion to Strike/Preclude* be served via ECF upon all parties registered to receive service in this case.

/s/ Sarah H. Morrissey  
Sarah H. Morrissey, Esq.